

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte BRENT A. HILL, CARY D. COTTRELL, YUN LING, JOHN M. LYNCH,  
SCOTT NOBLE, GUIXIANG TAN, THAI TONG,  
DANIEL S. WILLIS, and YINAN WU

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Application No. 10/689,789

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MAILED

AUG 16 2007

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences on July 26, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing are identified below:

Information Disclosure Statement

On August 29, 2005, an Information Disclosure Statement was filed in the present application. It is apparent from the record that the Examiner has not yet considered the submitted Information Disclosure Statement. The Information Disclosure Statement should be considered by the primary Examiner for compliance with 37 C.F.R. §§ 1.197 and 1.198. The Examiner should take appropriate action

therewith. A communication notifying the Appellants of the primary Examiner's decision should be prepared and mailed. It is appropriate that the necessary consideration and processing of the Information Disclosure Statement occur prior to a rendering of a decision in this appeal.

Examiner's Answer

On November 25, 2005, an Examiner's Answer was entered into the record. In the Evidence Relied Upon section, page 3, paragraph 8, the Examiner has stated, "No evidence is relied upon by the examiner in the rejection of the claims under appeal." A review of the file reveals that reference to Chen (U.S. 5,637,004), was applied to the statement of rejections in the Grounds of Rejection, paragraph (9) of the Examiner's answer.

Before further review, the Examiner must mail a PTOL-90 that will include in the Evidence Relied Upon section, the reference mentioned in the statement of rejections. See the Manual of Patent Examining Procedure, (MPEP) 1207.02. Appropriate correction is required.

Accordingly, it is

**ORDERED** that the application is returned to the Examiner

1) to properly consider the Information Disclosure Statement submitted to the USPTO on August 29, 2005 by either initialing the references, or by drawing a line through the references not considered;

2) to provide notification to Appellants as to the entry status of the IDS;

3) issue and mail a PTOL-90 having the missing reference listed under the Evidence Relied Upon section, heading (8) of the Examiner's Answer; and

4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: Patrick J. Nolan  
PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571) 272-9797

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cc: INTEL CORPORATION  
c/o INTELLEVATE, LLC  
P.O. BOX 52050  
MINNEAPOLIS MN 55402